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U.S. Department of Homeland Security
U. S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090



**U.S. Citizenship
and Immigration
Services**

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FILE: EAC 09 171 52328 Office: VERMONT SERVICE CENTER

Date: **FEB 05 2010**

IN RE: Petitioner:
Beneficiary:



PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(H)(ii)(b) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(H)(ii)(b)

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The director, Vermont Service Center, denied the nonimmigrant visa petition, and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner is engaged in reforestation, and it seeks to employ the beneficiaries as treeplanters pursuant to section 101(a)(15)(H)(ii)(b) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(H)(ii)(b), for the period from October 1, 2009 until April 30, 2010. The Department of Labor (DOL) determined that the petitioner had submitted sufficient evidence for the issuance of a temporary labor certification.

The director denied the petition, finding that, since the employment start date requested on the H-2B petition is different from the date of need stated on the approved temporary labor certification, the petitioner failed to meet the regulatory requirements at 8 C.F.R. § 214.2(h)(6)(iv)(D).

A review of the records of the United States Citizenship and Immigration Services indicates that the petitioner was subsequently approved for H-2B classification for 20 workers, valid until April 30, 2010. While the petitioner has not withdrawn the appeal in this proceeding, it would appear that the petitioner was granted H-2B classification for the desired number of workers and the issues in this proceeding are moot. Therefore, this appeal is dismissed.

ORDER: The appeal is dismissed as moot.